

# FEDERAL REGISTER

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*Washington, Thursday, October 15, 1942*

## *The President*

### EXECUTIVE ORDER 9254

[POSSESSION AND OPERATION OF PLANTS OF TRIUMPH EXPLOSIVES, INC., AND AFFILIATES]

WHEREAS, Triumph Explosives, Inc. has entered into contracts with the United States War Department and the United States Navy Department for the construction and manufacture of essential war materials and such war materials have been in the course of manufacture at the plants of said corporation; and

WHEREAS, it is deemed essential that the plants of the Triumph Explosives, Inc. be taken over for use and operation by the United States of America and that authority exist similarly to take over and operate plants of its subsidiaries, in order that they may be effectively and safely operated in the manufacture of the kind, quantity, and quality of war materials called for by the contracts of Triumph Explosives, Inc. with the United States:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, pursuant to the powers vested in me by the Constitution and the laws of the United States, as President of the United States and Commander-in-Chief of the Army and Navy of the United States, (1) hereby authorize and direct the Secretary of the Navy immediately to take possession of and operate the plants of Triumph Explosives, Inc. located at Elkton, Maryland, and (2) hereby further authorize the Secretary of the Navy, if and when he may deem it necessary and desirable for the effectuation of the purposes of this Order, to take possession of and operate any or all of the plants of the firms and corporations affiliated with Triumph Explosives, Inc., namely, the plants of Elk Loading Mills Corporation located at Elkton, Maryland; of Kent Defense Company located at Chestertown, Maryland; of Milford Ordnance Company, Inc. located at Milford, Delaware; of Sussex Ordnance Company located at Milford, Delaware; and of Maryland Display and Fireworks Company located at Elkton, Maryland—in so far as may be necessary or desirable to produce safely and effectively the kind,

quality, and quantity of war materials called for by the company's contracts with the United States, its departments and agencies, or as may be otherwise required for the war effort, and do all things necessary or incidental to that end.

The Secretary of the Navy may exercise the authority herein conferred through and with the aid of such person or persons or instrumentalities as he may designate and may select and hire such employees, including a competent civilian adviser on industrial relations, as are necessary to carry out the provisions of this Order, and in furtherance of the purposes of this Order the Secretary of the Navy may exercise any existing contractual or other rights of said company or of the said firms and corporations affiliated with it or take such steps as may be necessary or desirable.

Possession and operation of any plant under this Order will be terminated by the President as soon as he determines that such plant will be operated privately in a manner consistent with the war effort.

THE WHITE HOUSE,  
October 12, 1942.

FRANKLIN D. ROOSEVELT

[F. R. Doc. 42-10300; Filed, October 13, 1942;  
2:29 p. m.]

### EXECUTIVE ORDER 9255

PREScribing REGULATIONS GOVERNING THE PAYMENT OF RENTAL ALLOWANCES TO OFFICERS

By virtue of and pursuant to the authority vested in me by section 6 of the Pay Readjustment Act of 1942, approved June 16, 1942 (Public Law 607—77th Cong.), I hereby prescribe the following regulations governing the payment of rental allowances to officers of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, including adjunct forces thereof.

**I. Definitions.** As used in these regulations or in regulations prescribed pursuant hereto:

(a) The terms "on active duty" and "entitled to active-duty pay", shall apply

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to an officer while on the active list or while required to perform duty in accordance with law for which he is entitled to active-duty pay: *Provided*, that such terms shall not apply to any officer while absent from duty under conditions which, under the laws governing the particular service concerned, would prevent him from receiving full pay.

(b) The term "field duty" shall mean service, under orders, with troops operating against an enemy, actual or potential.

(c) The term "sea duty" shall mean service at sea by an officer on a vessel under orders (1) requiring the officer to report for duty on board a designated vessel or (2) assigning him to duty in command of vessels or as a member of the staff of an officer in command of vessels: *Provided*, that the officer concerned is not during the same period required to render service on shore of a character determined by the department concerned to be paramount to the duty which he is required to render at sea.

(d) The term "permanent station" shall mean the place on shore where an officer is assigned to duty, or the home yard or the home port of a vessel on board which an officer is required to perform duty, under orders in each case which do not in terms provide for the termination thereof; and any station on

shore or any receiving ship where an officer in fact occupies with dependents public quarters assigned to him without charge shall also be deemed during such occupancy to be his permanent station.

(e) The terms "competent superior authority" and "competent authority" shall mean the officer required by regulations of the department concerned to assign public quarters.

(f) The term "dependent" shall include at all times and in all places a lawful wife and unmarried children under twenty-one years of age. It shall also include the father or mother of the person concerned provided he or she is in fact dependent upon such person for his or her chief support: *Provided*, that the term "children" shall be held to include stepchildren and adopted children when such stepchildren or adopted children are in fact dependent upon the person claiming dependency allowance.

II. *Assignment of quarters.*—(a) The assignment of quarters to an officer shall consist of the designation in accordance with regulations of the department concerned of quarters controlled by the Government for occupancy without charge by the officer and his dependents, if any.

(b) No officer who, when adequate quarters are not available for assignment to him at his permanent station, is permitted or required personally to occupy inadequate quarters at such station shall so occupy more than one room and a bath.

(c) Any unassigned quarters at a post, yard, or station may, with the permission of competent superior authority and so long as not needed for assignment to officers on permanent duty thereat, be occupied by officers not permanently stationed thereat, but no officer unaccompanied by dependents shall be permitted to occupy as quarters at a post, yard, or station other than his permanent station more than one room and a bath.

III. *Payments.*—(a) Payment of the money allowance for rental of quarters to the officers entitled thereto shall be made periodically by appropriate disbursing officers upon submission of the evidence necessary to substantiate the payee's right to such allowance.

(b) No officer shall be paid a rental allowance for any period during which he is assigned quarters at his permanent station which have been determined to be adequate in accordance with regulations prescribed by the head of the department concerned.

IV. The head of any department concerned is authorized to prescribe such supplementary regulations not inconsistent herewith as he may deem necessary or desirable for carrying out these regulations.

This order shall supersede Executive Order No. 4063 of August 13, 1924, and shall be effective as of June 1, 1942.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,  
October 13, 1942.

[F. R. Doc. 42-10316; Filed, October 14, 1942;  
11:11 a. m.]

#### EXECUTIVE ORDER 9256

#### TERMINATION AND LIQUIDATION OF THE ELECTRIC HOME AND FARM AUTHORITY

By virtue of the authority vested in me by section 1 of the act of Congress approved March 31, 1936, 49 Stat. 1186, as amended, and as President of the United States, it is ordered as follows:

1. The Electric Home and Farm Authority shall cease to be an agency of the United States on the effective date of this order; and proceedings for the dissolution of the Authority shall be instituted in accordance with the laws of the District of Columbia, and the capital stock of the Authority shall be cancelled.

2. For purposes of liquidation and payment of its liabilities, all assets, funds, records, contracts, and property of the Electric Home and Farm Authority and the further administration thereof are hereby transferred to the Reconstruction Finance Corporation. All funds remaining upon completion of the liquidation of the Authority shall be paid by the Reconstruction Finance Corporation into the general fund of the Treasury.

3. All personnel of the Electric Home and Farm Authority are hereby transferred, without change in civil service status, to the Reconstruction Finance Corporation.

4. This order shall become effective as of the close of business October 31, 1942.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,  
October 13, 1942.

[F. R. Doc. 42-10315; Filed, October 14, 1942;  
11:11 a. m.]

#### Regulations

#### TITLE 31—MONEY AND FINANCE: TREASURY

##### Chapter I—Monetary Offices

[General License HSD-1]

#### PART 136—GENERAL LICENSES UNDER REGULATIONS OF THE GOVERNOR OF HAWAII RELATING TO SAFE DEPOSIT BOXES

##### OPENING OF SAFE DEPOSIT BOXES

OCTOBER 2, 1942.

A general license is hereby granted authorizing the lessor of any safe deposit box in the Territory of Hawaii which was not opened on or before October 1, 1942, pursuant to § 133.3 (a) (1)<sup>1</sup> of the Regulations Relating to Safe Deposit Boxes, to permit the lessee of such box (or such other person as may have access thereto) to open such box after October 1, 1942, for the purpose set forth in said § 133.3 (a) (1).

Every lessor of safe deposit boxes within the Territory of Hawaii shall file a report in triplicate with the Office of the Governor of Hawaii at the beginning of each week, setting forth the names

<sup>1</sup> 7 F.R. 6721.

and addresses of the lessees of all safe deposit boxes which were opened during the preceding week pursuant to this general license, if any such boxes were opened. Such reports shall include a description of any securities found to be held in violation of § 133.2 of the Regulations Relating to Securities,<sup>1</sup> as amended, and any United States currency found to be held in violation of the Regulations Relating to Currency, as amended, and a statement as to the disposition made of such securities and currency.

[SEAL] INGRAM M. STAINBACK,  
Governor.

[F. R. Doc. 42-10317; Filed, October 14, 1942;  
11:50 a. m.]

## TITLE 32—NATIONAL DEFENSE

### Chapter VIII—Board of Economic Warfare

Subchapter B—Export Control  
[Amendment LII]

#### PART 804—INDIVIDUAL LICENSES

##### GENERAL PROVISIONS, AMENDMENT

Paragraph (f) of § 804.1 *General Provisions*<sup>2</sup> is hereby amended to read as follows:

(f) An individual license is valid for six months unless:

(1) It is otherwise stated on the license, or (2) A stamp has been placed on a copy of the shipping space application, filed in accordance with the provisions of Part 808 of this subchapter, extending the expiration date of the license, or (3) The license is sooner revoked.

(Sec. 6, 54 Stat. 714, Pub. Law 75, 77th Cong., Pub. Law 638, 77th Cong.; Order No. 3, Delegations of Authority Nos. 25 and 26, 7 F.R. 4951.)

A. N. ZIEGLER,  
Acting Chief,  
Export Control Branch,  
Office of Exports.

OCTOBER 10, 1942.

[F. R. Doc. 42-10308; Filed, October 14, 1942;  
9:44 a. m.]

[Amendment LI]

#### PART 809—SHIPPING PRIORITY RATINGS

##### SHIPPING RATINGS ASSIGNED VARIOUS ARTICLES AND MATERIALS

Paragraph (a) of § 809.6 *Ratings assigned articles and materials under general license*<sup>3</sup> is hereby amended by the assignment of the following new shipping ratings to the following listed commodities:

<sup>1</sup> 7 F.R. 5808, 6463.

<sup>2</sup> 7 F.R. 5010, 7991.

<sup>3</sup> 7 F.R. 5268, 5660, 8178.

Schedule B No. and Commodity		Shipping rating
1716	Whiskey	D
1719	Other distilled liquors & compounds containing spirits	D
3857.7	Sleeping and lounging garments knit or woven (include pajamas, gowns, robes and kimonos)	D
9301	Mechanical pencils of plastic materials	C
9302	Mechanical pencils of materials other than plastic	C
9321	Writing ink	B

Paragraph (d) of § 809.6 *Ratings assigned articles and materials under general license* is hereby amended to read as follows:

(d) When articles and materials under general license are moving in transit through the United States in shipments originating outside of Canada, the merchandise included therein shall have the ratings assigned by § 809.6 (a) of this part, provided such merchandise is listed therein. If such merchandise is not listed in said § 809.6 (a), a rating of "D" is hereby assigned thereto.

(Sec. 6, 54 Stat. 714, Pub. Law 75, 77th Cong., Pub. Law 638, 77th Cong.; Order No. 3, Delegations of Authority Nos. 25 and 26, 7 F.R. 4951.)

A. N. ZIEGLER,  
Acting Chief,  
Export Control Branch,  
Office of Exports.

OCTOBER 9, 1942.

[F. R. Doc. 42-10309; Filed, October 14, 1942;  
9:44 a. m.]

[Amendment LII]

#### PART 809—SHIPPING PRIORITY RATINGS

##### APPEALS FOR HIGHER RATINGS

Section 809.8 *Appeals for higher ratings*<sup>1</sup> is hereby amended in the following particulars:

1. Paragraph (a) is amended to read as follows:

(a) Exporters may appeal for a higher rating than that assigned under an individual license, or for a higher rating than those prescribed under § 809.6 (a) for articles and materials under general license, by submitting in triplicate an "Appeal for Higher Shipping Priority Rating". Such appeal shall state, in addition to the name and address of the applicant, the following information relative to the articles or materials to be exported:

Individual or general license number.

Portion of the shipment which is at point of exit from the United States ready to be exported.

Location of goods at point of exit: in railroad cars, in railroad storage, etc.

Portion of the shipment which remains to be forwarded to point of exit.

Where information is available, the stage of manufacture of such portions: completed, in process, not started.

<sup>1</sup> 7 F.R. 5268, 5344.

Whether the material or article is manufactured to specifications not normally used in the United States.

Rating originally assigned to the commodity to be exported.

Description of the commodity as it appears on the export license. (If under general license, give brief description and the Department of Commerce Schedule B number).

Specific reasons why the applicant believes that a higher rating is justified.

If an application for freight space has previously been filed, the serial number and the status thereof shall be set forth in the letter of appeal. If an application for freight space has not previously been filed and the shipment weighs over 2240 pounds, the applicant shall submit such application with his appeal, with an acknowledgment card.

2. Paragraph (b) is hereby rescinded.

(Sec. 6, 54 Stat. 714, Pub. Law 75, 77th Cong., Pub. Law 638, 77th Cong.; Order No. 3, Delegations of Authority Nos. 25 and 26, 7 F.R. 4951.)

A. N. ZIEGLER,  
Acting Chief,  
Export Control Branch,  
Office of Exports.

OCTOBER 10, 1942.

[F. R. Doc. 42-10310; Filed, October 14, 1942;  
9:44 a. m.]

#### Chapter XI—Office of Price Administration

##### PART 1394—FUEL AND FUEL RATIONING

[Amendment "7" to Ration Order 5B<sup>1</sup>]

##### GASOLINE RATIONING REGULATIONS FOR PUERTO RICO

A rationale involved in the issuance of this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.\*

Paragraph (e) to § 1394.2306 is amended to read as set forth below:

§ 1394.2306 *Preferred mileage.* \* \* \*

(e) By a licensed physician, surgeon, dentist, osteopath, chiropractor, midwife, or veterinarian, or by a public health nurse, for making necessary professional calls or rendering necessary professional services; or by a licensed funeral director or embalmer, for rendering services necessary in connection with the preparation for interment and the interment of deceased persons.

\* \* \*  
§ 1394.3052 *Effective dates of amendments.* \* \* \*

(g) The effective date of Amendment No. 7 (§ 1394.2306 (e)) to Ration Order No. 5B shall become effective October 13, 1942.

(Pub. Laws 421 and 723, 77th Cong.; E.O. 9250, 7 F.R. 7871)

\* Copies may be obtained from the Office of Price Administration.

<sup>1</sup> 7 F.R. 5597, 6363, 6330, 6371, 7450, 7833.

Issued this 13th day of October 1942.

WILLIAM MEAD,  
Acting Director for the  
Territory of Puerto Rico.

[F. R. Doc. 42-10306; Filed, October 13, 1942;  
4:45 p. m.]

#### PART 1499—COMMODITIES AND SERVICES

[Amendment 32 to Supplementary Regulation 1<sup>1</sup> of General Maximum Price Regulation 2<sup>2</sup>]

##### WOOL SKINS

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.\*

Subdivision (ix) of § 1499.26 (d) (1) is amended to read as set forth below:

§ 1499.26 *Exceptions for certain commodities, certain sales and deliveries.*

\* \* \*

(d) *Definitions:* (1) When used in this Supplementary Regulation No. 1, the term: \* \* \*

(ix) "Wool skins" means the untanned skins of sheep or lambs with the wool still on, but shall not include such skins which are sold for use as furs.

\* \* \* \* \*

(e) *Effective dates.* \* \* \*

(33) Amendment No. 32 (§ 1499.26<sup>1</sup> (d) (1) (ix)) to Supplementary Regulation No. 1 shall become effective October 19, 1942.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871.)

Issued this 13th day of October 1942.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 42-10305; Filed, October 13, 1942;  
4:45 p. m.]

#### PART 1499—COMMODITIES AND SERVICES

[Order 58 Under § 1499.18 (b) of the General Maximum Price Regulation—Docket GF3-602]

##### INTERNATIONAL BADGER CORPORATION ORDER GRANTING ADJUSTMENT

For the reasons set forth in an opinion issued simultaneously herewith: *It is ordered:*

§ 1499.858 *Adjustment of maximum prices for sales of dressed badger hair by International Badger Corporation, 208 West 29th Street, New York City.*

(a) International Badger Corporation, 208 West 29th Street, New York City, is

\* Copies may be obtained from the Office of Price Administration.

<sup>1</sup> 7 F.R. 3158, 3488, 3892, 4183, 4410, 4428, 4487, 4488, 4493, 4669, 5066, 5192, 5276, 5366, 5484, 5607, 5717, 5942, 6082, 6473, 6685, 7011, 7250, 7317, 7598, 7604, 7739.

<sup>2</sup> 7 F.R. 3153, 3330, 3666, 3990, 3991, 4330, 4487, 4659, 4738, 5027, 5276, 5192, 5365, 5445, 5565, 5484, 5775, 7093, 7322, 7454, 7758, 7913, 5784, 5783, 6058, 6081, 6007, 6216, 6615, 6794, 6939.

hereby authorized to sell and deliver the following grades of dressed badger hair at prices not in excess of the following:

	<i>Price per pound</i>
60 m/m and/or up Solid Badger Casings..	\$54
60 m/m and/or up Solid Badger Middles..	45
55 m/m Taper Badger Middles.....	20

(b) The maximum prices authorized by this order are subject to discounts, allowances and terms no less favorable than those in effect during March 1942.

(c) This order may be revoked or amended by the Price Administrator at any time.

(d) This Order No. 58 (§ 1499.858) is hereby incorporated as a section of Supplementary Regulation No. 14 which contains modifications of maximum prices established by section 1499.2.

(e) This Order No. 58 (§ 1499.858) shall become effective this 13th day of October 1942.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 13th day of October 1942.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 42-10304; Filed, October 13, 1942;  
4:44 p. m.]

##### Chapter XV—Board of War Communications [Order 20]

#### PART 1717—PRIORITY FOR URGENT TELEPHONE TOLL CALLS ESSENTIAL TO THE WAR EFFORT OR PUBLIC SAFETY

Whereas, the Board of War Communications has determined that the national defense and security and the successful conduct of the war demand that certain telephone toll calls relating to the war effort or public safety be given preferred handling;

Now, therefore, by virtue of the authority vested in the Board by Executive Order No. 8964<sup>1</sup> of December 10, 1941, prescribing regulations governing the preference and priority of communications, and by virtue of the authority vested in the Board by Executive Order No. 9089<sup>2</sup> of March 6, 1942, prescribing regulations governing the use, control, supervision and closing of stations and facilities for wire communications;

*It is hereby ordered as follows:*

Sec.

- 1717.1 Priorities.
- 1717.2 Preferred callers.
- 1717.3 Records.
- 1717.4 Reports.
- 1717.5 Violations.

AUTHORITY: §§ 1717.1 to 1717.5 inclusive, issued under E.O. 8964 and 9089; 6 F.R. 6367, 7 F.R. 1777.

§ 1717.1 *Priorities.* On and after November 1, 1942, urgent toll calls placed with commercial telephone systems by the authorized persons or agencies designated in § 1717.2 shall upon request be given priority over all other toll calls in accordance with the provisions of, and in

<sup>1</sup> 6 F.R. 6367.

<sup>2</sup> 7 F.R. 1777.

the order set forth in paragraphs (a), (b), and (c) of this section:

(a) Priority 1 shall be given to calls which require immediate completion for war purposes or to safeguard life or property and which relate to one or more of the following matters:

(1) Arrangements for moving armed forces during combat operations.

(2) Extremely urgent orders to armed forces.

(3) Immediate dangers due to the presence of the enemy.

(4) Hurricane, flood, earthquake or other disaster materially affecting the war effort or public security.

Where necessary for the immediate completion of a call having Priority 1, any conversation in process (other than one having Priority 1) may be interrupted.

(b) Priority 2 shall be given to calls which require immediate completion for the national defense and security, the successful conduct of the war, or to safeguard life or property other than those specifically described in § 1717.1 (a).

(c) Priority 3 shall be given to calls which require prompt completion for the national defense and security, the successful conduct of the war, or to safeguard life or property and which involve matters of the following type:

- (1) Important governmental functions.
- (2) Machinery, tools or raw materials for war plants.
- (3) Production of essential supplies.
- (4) Maintenance of essential public services.
- (5) Supply or movement of food.
- (6) Civilian defense or public health and safety.

§ 1717.2 *Preferred callers.* The following persons and agencies are designated as authorized persons or agencies entitled to use telephone toll priorities where such call is required in the manner and for a purpose specified above:

(a) The President of the United States, the Vice President, Cabinet officers, Members of Congress, Army, Navy, Aircraft Warning Service, Federal, State and Municipal Government Departments and Agencies, Embassies, Legations, and Commissions of the United Nations, Civilian Defense Organizations, Red Cross, State and Home Guards, essential war industries, essential services such as communications, transportation, power, water, fuel, press associations, newspapers, and health and sanitation services.

§ 1717.3 *Records.* A record shall be kept by all telephone carriers of all priority calls, which record shall include the priority given and whether a conversation in process was interrupted. Such record shall be kept by the telephone carrier for two years after the date of the call.

§ 1717.4 *Reports.* Within thirty days after the end of each calendar month, the American Telephone and Telegraph Company shall file with the Board a report for the Bell System Companies showing:

(a) The number of calls during the preceding calendar month given Priority

1, 2, and 3, and the number of calls given Priority 1 for which other calls were interrupted;

(b) Periods of time required for completion of each class of priority calls.

§ 1717.5 *Violations.* The telephone facilities of any subscriber who wilfully obtains or attempts to obtain priority for a toll call by fraudulently designating such call as a priority call or by furnishing false information to any telephone carriers for the purpose of obtaining a priority, shall be subject to closure, removal or other appropriate governmental action.

Subject to such further order as the Board may deem appropriate.

By the Board of War Communications.

JAMES LAWRENCE FLY,  
Chairman.

Attest: OCTOBER 3, 1942.

HERBERT E. GASTON,  
Secretary.

[F. R. Doc. 42-10311; Filed, October 14, 1942;  
9:47 a. m.]

## TITLE 49—TRANSPORTATION AND RAILROADS

### Chapter II—Office of Defense Transportation

[General Order ODT 18, Revised]

### PART 500—CONSERVATION OF RAIL EQUIPMENT

#### SUBPART C—CARLOAD FREIGHT TRAFFIC

By virtue of the authority vested in me by Executive Order No. 8989 issued December 18, 1941, and in order to make available railway cars and other transportation facilities and equipment for the preferential transportation of material of war, as contemplated by section 6 (8) of the Interstate Commerce Act, as amended; to prevent shortages of equipment necessary for such transportation; to conserve and providently utilize motive power and other transportation facilities and service; and to expedite the movement of freight traffic, the attainment of which purposes is essential to the successful prosecution of the war, Subpart C (General Order ODT 18, as amended), Part 500, Chapter II, Title 49 of the Code of Federal Regulations, is hereby revised and amended to read as follows:

*It is hereby ordered, That:*

Sec.	
500.20	Definitions.
500.21	Loading of carload freight.
500.22	Special and general directions and permits.
500.23	Exemptions.
500.24	Consignor's certificate.
500.25	Stop-offs to complete loading or for partial unloading.
500.26	Consolidation of shipments in a single car.
500.27	Filing rate publications; rates not to be increased.
500.28	Communications.
500.29	Revocation.
500.30	Effective date.

AUTHORITY: §§ 500.20 to 500.30, inclusive, issued under E.O. 8959, 6 F.R. 6725.

17 F.R. 6496, 7039.

§ 500.20 *Definitions.* As used in this subpart or in special directions issued hereunder:

(a) The term "person" means any individual, partnership, corporation, association, joint-stock company, business trust, or other organized group of persons, and includes any agency of the United States or of a State or political subdivision thereof, or any trustee, receiver, assignee, or personal representative.

(b) The term "rail carrier" means any person engaged in the transportation of property as a common carrier by railroad, in or between any of the several States of the United States or the District of Columbia;

(c) The term "open freight car" means any railway car not roofed or permanently covered, other than a flat car, used by a rail carrier for the transportation of freight by rail;

(d) The term "closed freight car" means any roofed or permanently covered railway freight car, other than a tank car, used by a rail carrier for the transportation of freight by rail;

(e) The terms "freight car" and "car" mean any open freight car or closed freight car as defined in paragraphs (c) and (d) of this § 500.20;

(f) The terms "carload freight" and "freight" mean property transported by a rail carrier in an open freight car or a closed freight car at other than less-than-carload or any-quantity rates;

(g) The term "bulk freight" means any carload freight consisting of any non-liquid, non-gaseous commodity shipped loose or in mass and which in the loading or unloading thereof is ordinarily shoveled, scooped, forked, or mechanically conveyed or which is not in containers or in units of such size to permit piece by piece loading or unloading;

(h) The term "non-bulk freight" means any carload freight consisting of any commodity which is not included within the term "bulk freight";

(i) The term "point of origin" means a point in the United States at which a rail carrier furnishes an empty car to be loaded with carload freight.

§ 500.21 *Loading of carload freight.* No rail carrier shall accept for transportation at point of origin, or forward therefrom, any carload freight in any freight car unless such freight is loaded in accordance with one of the following requirements:

(a) With a quantity of freight which equals or exceeds in weight the marked capacity (not "Load Limit") in pounds, which is stenciled on such car or is shown under the heading "Capacity" in the Official Railway Equipment Register, Alternate Agent M. A. Zenobia's I.C.C.E.R. No. 264, or supplements thereto and relieves thereof; or

(b) With a quantity of bulk freight in a closed freight car, loaded to an elevation not lower than eighteen (18) inches from the roof of the car measured at its side walls, or, if the interior walls of such car are partially sheathed or lined, to the utmost elevation practicable without overrunning the sheathing or lining; or

(c) With a quantity of non-bulk freight in a closed freight car or with a

quantity of bulk freight or non-bulk freight in an open freight car loaded so as to occupy and utilize all of the practicable stowage space of such freight car.

(d) Nothing in this § 500.21 shall be construed as requiring (1) that cars shall be loaded to such an extent or in such a manner as to create a transportation hazard, or to cause damage to the loading, or to cause injury to persons engaged in loading or unloading such cars, or (2) that cars containing freight requiring refrigeration, heat, or ventilation in transit be loaded beyond the refrigerating, heating, or ventilating capacity of such cars, or (3) the loading of any freight car in a manner inconsistent with efficient stowage practices.

§ 500.22 *Special and general directions and permits.* The provisions of this subpart shall be subject to any special direction with respect to maximum loading of carload freight consisting of commodities designated in such special direction issued by the Director, Division of Railway Transport, Office of Defense Transportation, and to any special or general permit issued by the Office of Defense Transportation, to meet specific needs or exceptional circumstances, to avoid controversies with respect to when loading will create a transportation hazard, cause damage to loading, cause injury to persons, or is beyond the refrigerating, heating, or ventilating capacity of a car or cars, or to prevent undue hardships.

§ 500.23 *Exemptions.* The provisions of § 500.21 of this subpart shall not apply to:

(a) Freight shipped by or consigned to any establishment of the United States Army, Navy, Coast Guard, or Marine Corps; freight consisting principally of airplanes, armaments, munitions, military vehicles including tanks, and processed parts thereof; and freight consisting of marine equipment consigned to the Maritime Commission or the War Shipping Administration;

(b) A tariff minimum carload shipment of any commodity or commodities which have been allocated or limited by a regulation of an agency of the United States Government in such quantity as to preclude shipment of an amount sufficient to meet the loading requirements of this subpart, or to a tariff minimum carload shipment of any commodity or commodities not so allocated or limited when loaded in the same car with such allocated or limited commodity or commodities: *Provided, however,* That the consignor has first attempted in good faith to avail himself of the provisions of §§ 500.25 and 500.26 of this subpart;

(c) A tariff minimum carload shipment of explosives or other dangerous articles as defined and listed in and transported under "Regulations for Transportation of Explosives and Other Dangerous Articles" adopted by the Interstate Commerce Commission by order of August 16, 1940, effective January 7, 1941, in Docket No. 3636, as amended, pursuant to the provisions of Title 18, sec. 333, U. S. Code, as published in Agent W. S. Topping's Freight Tariff No. 4, I.C.C. No. 4, and supplements



thereto and reissues thereof, or to a tariff minimum carload shipment of other freight loaded in the same car with a carload shipment of explosives or other dangerous articles as defined above;

(d) Freight moving under and in accordance with "cleanout" or "remnant rules" or "gathering rates and rules" established in applicable freight tariffs;

(e) Carload freight which is transported over a route of movement authorized in a rail carrier's tariff to a point or points intermediate between origin and destination for consolidation of shipments, or for stopping in transit to complete loading, or for partial unloading, when the car containing such freight is loaded in accordance with the requirements specified in § 500.21 of this subpart during a part of the movement;

(f) Freight loaded in a car, which car, because of construction or design, cannot be interchanged with other carriers under MCB rules;

(g) Freight to be unloaded at points located on railroads in the Republic of Cuba;

(h) Freight consisting of livestock or other live animals or live poultry;

(i) Freight consisting of cotton or cotton linters, in bales;

(j) Freight loaded by a rail carrier when such freight consists of such rail carrier's own material or equipment and is to be moved over its own lines;

(k) Carload shipments of freight when authorized by and made in accordance with any special permit issued by the chief operating officer or division superintendent of the initial line-haul rail carrier, or by the chief operating officer or division superintendent of the initial switching carrier where no line-haul service is to be performed, in a specific case where, in his judgment, because of the unusual character of the lading, or unusual circumstances, or undue car detention, he believes compliance with the loading requirements of this subpart would result in the inefficient use, or unduly retard the efficient use, of cars or locomotives, or, in a specific case, where in his judgment, such permit is required for reasons of military necessity. Weekly reports of all special permits issued by the chief operating officer or division superintendent of each rail carrier shall be made to the Director, Division of Railway Transport, Office of Defense Transportation, Washington, D. C., by the chief operating officer of each such rail carrier upon forms prescribed by the Office of Defense Transportation.

§ 500.24 *Consignor's certificate.* There shall be endorsed on the shipping instructions issued with respect to any carload freight that is loaded other than in compliance with the provisions of paragraph (a), (b), or (c) of § 500.21 of this subpart or any special direction issued by the Director, Division of Railway Transport, Office of Defense Transportation, under the provisions of § 500.22 of this subpart, a certificate specifying the exemption applicable to the shipment or shipments or the number of any special or general permit issued by the Office of Defense Transportation, authorizing the

transportation of such freight in a manner other than that required hereunder. Such certificate shall be in such form as shall be prescribed by the Director, Division of Railway Transport, Office of Defense Transportation, and shall be executed by the consignor. Where shipments of more than one consignor are loaded in one freight car at point of origin, the consignor who completes the loading of the car shall execute the certificate. Any agent other than a rail carrier may execute the certificate for the consignor. The failure of a consignor or his agent to endorse or the shipping instructions a certificate specifying the exemption, general permit, or special permit applicable to the shipment covered by such shipping instructions shall constitute a representation by the consignor to the rail carrier that the car containing such shipment has been loaded in compliance with the provisions of paragraph (a), (b), or (c) of § 500.21 of this subpart.

§ 500.25 *Stop-offs to complete loading or for partial unloading.* (a) Each rail carrier, in connection with freight subject to this subpart, shall permit a single stop of any freight car in transit to complete loading or shall permit a stop for partial unloading (but not both) when the stop-off point is intermediate between point of origin and destination over the route of movement: *Provided*, That the provisions of this § 500.25 shall not be construed to require a rail carrier to permit such stops in connection with shipments of:

(1) Bulk freight.

(2) Freight consigned to order, or to order notify, or otherwise so consigned as to require surrender of a bill of lading, written order, or any other document in advance of delivery.

(3) Freight moving without recourse on the consignor or under instructions against its delivery without collection of freight and other lawful charges as provided in the uniform bill of lading.

(4) Freight loaded or unloaded at an intermediate prepay or non-agency station;

(b) Nothing in this § 500.25 shall be construed as limiting or restricting the number of stop-off privileges presently authorized and provided for in rail carrier tariffs, or as affecting the charges to be assessed for stop-off privileges, or as requiring that more than one stop-off privilege be accorded any freight car in transit between point of origin and ultimate destination.

§ 500.26 *Consolidation of shipments in a single car.* (a) Any rail carrier or consignor, or any combination of either or both, but not in excess of three in the aggregate, may consolidate and ship in a single car from one or more points of origin in the United States, but not exceeding three such points, two or more consignments of freight, each of which equals or exceeds the tariff carload minimum weight, to one or more, but not exceeding three consignees, at one or more, but not exceeding three destination points; such consolidation services shall be afforded by each rail carrier and

except as to the provisions of § 500.25 of this subpart, each such consignment shall be considered and treated for the purposes of applying rates and charges and rendering transportation services as if it were shipped in a separate car: *Provided*, That nothing in this § 500.26 shall be construed to require the extension or rendering of the consolidation services above provided for in connection with shipments of:

(1) Freight of such a nature as to contaminate or damage other freight in the car,

(2) Freight loaded or unloaded at an intermediate prepay or non-agency station,

(3) Bulk freight,

(4) Freight consigned to order, or to order notify, or otherwise so consigned as to require surrender of a bill of lading, written order, or any other document in advance of delivery,

(5) Freight moving without recourse on the consignor or under instructions against its delivery without collection of freight and other lawful charges as provided in the uniform bill of lading;

(b) No diversion or change of destination or reconsigning in transit shall be allowed with respect to consolidation services provided for herein, except where, under published rules, it may be in the same direction and over the same route as the initial shipment after previous shipments have been unloaded. Movement to final destination will not be considered a reconsigning;

(c) Nothing in this § 500.26, except paragraph (b), shall be construed as limiting or restricting the consolidation services presently afforded by a rail carrier or presently authorized and provided for in rail carrier tariffs, or as affecting the charges to be assessed for such consolidation services.

§ 500.27 *Filing rate publications; rates not to be increased.* Each rail carrier required by law to file tariffs of rates, charges, rules or regulations shall file with the Interstate Commerce Commission in respect of transportation in interstate or foreign commerce and with each appropriate State regulatory body in respect of transportation in intrastate commerce, and publish in accordance with law, and continue in effect only for the duration of the present emergency unless otherwise ordered, tariffs or appropriate supplements to filed tariffs setting forth any changes in the rates and charges, rules, regulations, or practices of such rail carrier which may be necessary to accord with the provisions of this subpart; and shall apply to said Commission and each such regulatory body for special permission for such tariffs or supplements to become effective on the prescribed minimum period of notice. A copy of this subpart shall be filed with said Commission and each such regulatory body. Nothing in this subpart shall be construed as requiring or sanctioning the revision, amendment, change, or alteration of established carload minima, or as requiring or approving increases in transportation rates or charges.

§ 500.28 *Communications.* Communications concerning this subpart shall be addressed to the Division of Railway Transport, Office of Defense Transportation, Washington, D. C. Such communications shall refer to General Order O.D.T. 18, Revised.

§ 500.29 *Revocation.* Subpart C (General Order O.D.T. No. 18, as amended), Part 500 of Chapter II, of Title 49 of the Code of Federal Regulations, and Subpart C (Suspension Order O.D.T. 18-1),<sup>1</sup> § 500.20 of Chapter II of Title 49 of the Code of Federal Regulations, be and the same are hereby revoked effective as of the date of issuance of this subpart.

§ 500.30 *Effective date.* §§ 500.22, 500.27, 500.29, and 500.30 of this subpart shall become effective upon the date of issuance of this subpart. All other sections and provisions hereof shall become effective November 1, 1942.

Issued at Washington, D. C., this 13th day of October 1942.

JOSEPH B. EASTMAN,  
*Director of Defense Transportation.*

[F. R. Doc. 42-10302; Filed, October 13, 1942;  
3:12 p. m.]

[Special Direction O.D.T. 18, Revised-1]

PART 520—CONSERVATION OF RAIL EQUIPMENT—EXCEPTIONS, PERMITS, SPECIAL DIRECTIONS

SUBPART C—CARLOAD FREIGHT TRAFFIC  
TRANSPORTATION OF CERTAIN COMMODITIES

Pursuant to the provisions of General Order O.D.T. 18, Revised,<sup>2</sup> Title 49, Chapter II, § 500.22,

*It is hereby ordered, That:*

§ 520.477 *Transportation of certain commodities.* Notwithstanding the provisions of § 500.21 of General Order O.D.T. 18, Revised, any rail carrier may accept for transportation at point of origin, or forward therefrom, carload freight consisting of any of the following commodities loaded in a closed freight car when such car is loaded to the extent hereinafter shown:

(a) A straight or mixed carload shipment of:

(1) Seed, grain products, grain by-products, packaged rice, cereal food preparations, vegetable oil meal, animal and poultry feed, all in containers, and vegetable oil cake, shall be loaded to a minimum weight of 60,000 pounds;

(2) Corn or maize (not popcorn) in the ear (shucked or not shucked), oats, unground screenings, sorghum grains in the heads and unthreshed, shall be loaded to 80 percent of the weight required by § 500.21 (a) of General Order O.D.T. 18, Revised, or to an elevation not lower than 24 inches from the roof of the car measured at its side walls;

(3) Shelled corn or maize, threshed sorghum grains, soy beans, flaxseed, or grains other than those mentioned in the next preceding paragraph shall be

loaded to an elevation not lower than 24 inches from the roof of the car measured at its side walls, or up to the lawfully marked grain line of a car so marked;

(4) Coal shall be loaded to 80 percent of the weight required by § 500.21 of General Order O.D.T. 18, Revised, or if the interior walls of the car are partially sheathed or lined to an elevation insufficient to permit such loading without overrunning the sheathing or lining, then to the upmost elevation practicable without causing such overrunning.

(b) A straight carload shipment of:

(1) Liquids in metal drums of not less than 40 gallon capacity each shall be loaded, each drum placed on end, in one tier covering the entire floor space of the car;

(2) Cement in cloth or paper bags, when loaded in a car of 100,000 lbs. capacity or greater, shall be loaded to a minimum weight of 95,000 lbs.;

(3) Dried beans and peas in burlap, cotton, or paper bags shall be loaded to a minimum weight of 80,000 lbs.;

(4) Peanuts (unshelled) in bags shall be loaded to a minimum weight of 40,000 lbs.;

(5) Peanuts (shelled) in bags shall be loaded to a minimum weight of 50,000 lbs.;

(6) Sewer pipe 4" to 24" in diameter shall be loaded to a minimum weight of 35,000 lbs.;

(7) Glass (flat, plate, window and laminated) shall be loaded to a minimum weight of 70,000 lbs.;

(8) Tobacco in hogsheads, when origin or destination station is not provided with mechanical equipment for double decking, shall be loaded, each hogshead placed upright, in a single tier covering the floor space of the car;

(9) Evaporated milk in cans shall be loaded to a minimum weight of 72,000 lbs.;

(10) Lime in containers shall be loaded to a minimum weight of 70,000 lbs.;

(11) Lime in bulk shall be loaded to 80 percent of the weight required by § 500.21 (a) of General Order O.D.T. 18, Revised, or to a minimum weight of 80,000 pounds whichever is greater, or if the interior walls of the car are partially sheathed or lined to an elevation insufficient to permit such loading without overrunning the sheathing or lining, then to the upmost elevation practicable without causing such overrunning;

(12) Limestone, ground, in containers shall be loaded to a minimum of 80,000 lbs.;

(13) Rosin in drums or barrels shall be loaded, each drum or barrel placed on end, in a tier covering the floor space of the car;

(14) Rosin in bags shall be loaded 8 tiers high, each tier to be the same length and width as the floor space of the car;

(15) Turpentine and pine oil in drums shall be loaded, each drum placed on end, in a single tier covering the floor space of the car;

(16) Turpentine and pine oil in cans or bottles, packed in cardboard containers, shall be loaded to a minimum weight of 40,000 pounds;

(17) Citrus fruit, pre-cooled, in standard boxes, when loaded in cars equipped with circulating fans, shall be loaded, each box placed on end, 3 layers high, each layer to be the same length and width as the floor space of the car;

(18) Citrus fruit pre-cooled, in container No. 5004 described in A.A.R., Perishable Division, Freight Container Bureau tariffs Nos. 2-B, Central West Territory, I.C.C. No. 14, J. J. Quinn, Agent, or F.C.B.-3-a, South East Territory, J. J. Quinn, Agent, or supplements thereof and releases thereof, when loaded in cars equipped with circulating fans, shall be loaded, each container placed bottom down, 5 layers high, each layer to be the same length and width as the floor space of the car;

(19) Salt in containers shall be loaded to a minimum weight of 60,000 lbs.;

(20) Potash in paper containers shall be loaded to a minimum weight of 80,000 lbs.;

(21) Dry ice (solidified carbon dioxide), when loaded in a car specially prepared for the shipment of such commodity.

§ 520.478 *Effective date.* This special direction shall become effective November 1, 1942.

Issued at Washington, D. C., this 13th day of October 1942.

V. V. BOATNER,  
*Director,*  
*Division of Railway Transport.*

[F. R. Doc. 42-10303; Filed, October 13, 1942;  
3:12 p. m.]

[Special Direction O.D.T. 18, Revised-2]

PART 520—CONSERVATION OF RAIL EQUIPMENT—EXCEPTIONS, PERMITS, SPECIAL DIRECTIONS

SUBPART C—CARLOAD FREIGHT TRAFFIC  
TRANSPORTATION OF WATER-RAIL, RAIL-WATER-RAIL SHIPMENTS

Pursuant to the provisions of General Order O.D.T. 18, Revised,<sup>2</sup> Title 49, Chapter II, § 503.22,

*It is hereby ordered, That:*

§ 520.479 *Transportation of water-rail, rail-water-rail shipments.* Notwithstanding the provisions of § 500.21 of General Order O.D.T. 18, Revised, a rail carrier may accept for transportation and forward from a point where it receives carload freight from a water carrier, for a continuous movement beyond, carload freight moving by rail, thence by water, and thence by rail, or carload freight moving by water and thence by rail, when such freight is loaded to the extent hereinafter shown:

(a) When carload freight moving by rail, thence by water, and thence by rail has been loaded at initial shipping point in accordance with the requirements specified in § 500.21 of General Order O.D.T. 18, Revised, or in accordance with the requirements of a special direction issued pursuant to the provisions of § 500.22 of that order, or when the initial rail movement has been authorized by a

<sup>1</sup> 7 F.R. 6905.

<sup>2</sup> *Supra.*

<sup>1</sup> *Supra.*

general or special permit, such freight may be transported in a car of larger capacity from the point where transfer is made by such water carrier to a rail carrier, when such car is loaded as heavily as the car from which the freight was transferred to a water carrier. When a car of smaller capacity is furnished by a rail carrier for the movement of the freight from the point where transfer is made by a water carrier to such rail carrier, and the car of smaller capacity is not of sufficient size to accommodate the freight which was loaded in a single car at the initial shipping point, the loading requirements of General Order ODT 18, Revised, or of any special direction issued pursuant to the provisions of § 500.22 of that order, will not apply in connection with the loading of such freight from the point where transfer is made by a water carrier to such rail carrier, provided the water carrier has ordered a car of sufficient size to accommodate such freight. When two or more cars have been used in transporting one consignment of freight to the point where transfer has been made by a rail carrier to a water carrier, the same number of cars may be used in transporting such consignment of freight from the point where transfer is made by such water carrier to a rail carrier.

(b) When carload freight moving by water and thence by rail is transferred by a water carrier to a rail carrier for movement beyond in a closed car, such closed car shall be loaded in accordance with one of the following requirements: (1) to a net weight of 80,000 pounds, or (2) to the marked capacity of the car, whichever is the lesser, or (3) a minimum of 2,500 cubic feet of loading space in such car shall be utilized.

(c) When carload freight moving by water and thence by rail is transferred by a water carrier to a rail carrier for movement beyond in an open car, such open car shall be loaded in accordance with one of the following requirements: (1) to a net weight of 100,000 pounds, or (2) to the marked capacity of the car, whichever is the lesser, or (3) a minimum of 1,500 cubic feet of loading space in such car shall be utilized.

(d) When a single consignment of carload freight moving by water and thence by rail is tendered by a water carrier to a rail carrier in a quantity which can be loaded in the size of car ordered by the water carrier, but cannot be loaded in a car of the size furnished by such rail carrier, the following will apply: (1) When not more than two cars are used to transport such freight, the loading requirements of General Order ODT 18, Revised, or of any special direction issued pursuant to the provisions of § 500.22 of that order, will not apply to such freight. (2) When more than two cars are used to transport a single consignment of carload freight moving by water and thence by rail, the loading requirements of General Order ODT 18, Revised, or of any special direction issued pursuant to the provisions of § 500.22 of that order, will not apply to the freight loaded in one of such cars: *Provided, however,*

That the provisions of this special direction shall not apply to carload freight moving first by water on the high seas and thence by rail.

§ 520.480 *Effective date.* This special direction shall become effective on November 1, 1942.

Issued at Washington, D. C., this 13th day of October 1942.

V. V. BOATNER,  
Director,

Division of Railway Transport.

[F. R. Doc. 42-10301; Filed, October 13, 1942;  
3:12 p. m.]

[Suspension Order ODT 25-2]

PART 522—DIRECTION OF TRAFFIC MOVEMENT—EXCEPTIONS, SUSPENSIONS, AND PERMITS

SUBPART H—OPERATION OF VESSELS ON THE GREAT LAKES

Pursuant to the authority conferred by General Order ODT 25, Title 49, Chapter II, § 502.81.<sup>1</sup>

It is hereby ordered, That:

§ 522.777 *Certain provisions of General Order ODT 25 suspended.* The provisions of § 502.76 of General Order ODT 25 shall be and are hereby suspended until further order with respect to the operation of:

(a) Vessels having a gross register tonnage of less than one thousand tons;

(b) Vessels in connection with the transportation of iron ore;

(c) Vessels in connection with the transportation of coal which is now subject to the provisions of §§ 502.5 to 502.8, inclusive, Part 502, this Title and Chapter of the Code of Federal Regulations (General Order O. D. T. No. 9)<sup>2</sup>;

(d) Vessels in connection with the transportation of coke;

(e) Vessels, other than ore type vessels, in connection with the transportation of iron and steel scrap loaded in any such vessel at Duluth, Minnesota;

(f) Vessels of the self-unloader belt type in connection with the transportation of blast furnace fluxstone or open hearth stone, intended for use in the manufacture of iron or steel;

(g) Vessels of the self-unloader belt type in connection with the transportation of limestone intended for use in the manufacture of chemicals;

(h) Vessels, other than ore type vessels or vessels of the self-unloader belt type, in connection with the transportation of property in packages or containers.

§ 522.778 *Revocation.* Suspension Order ODT 25-1,<sup>3</sup> this Title and Chapter, Part 522, Subpart H, is hereby revoked effective upon the date this suspension becomes effective.

§ 522.779 *Effective date.* This suspension order shall become effective on the 19th day of October, 1942, and shall remain in full force and effect until further notice.

<sup>1</sup> 7 F. R. 7981.

<sup>2</sup> 7 F. R. 3905.

<sup>3</sup> 7 F. R. 7982.

Issued at Washington, D. C., this 13th day of October 1942.

JOSEPH B. EASTMAN,

Director of Defense Transportation.

[F. R. Doc. 42-10307; Filed, October 13, 1942;  
5:00 p. m.]

## Notices

### DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. B-299]

A. B. EWEN, CODE MEMBER

ORDER POSTPONING HEARING

The above-entitled matter having been heretofore scheduled for hearing at 10 o'clock in the forenoon of October 28, 1942, at a hearing room of the Bituminous Coal Division at the County Court House, Huntington, West Virginia; and The Director deeming it advisable that said hearing should be postponed.

Now, therefore, it is ordered, That the said hearing in the above-entitled matter be and the same hereby is postponed from 10 o'clock in the forenoon of October 28, 1942, to 10 o'clock in the forenoon of October 29, 1942, at the same place and before the same officer or officers as previously designated.

Dated: October 13, 1942.

[SEAL]

DAN H. WHEELER,  
Director.

[F. R. Doc. 42-10313; Filed, October 14, 1942;  
11:03 a. m.]

[Dockets Nos. A-185, A-265, A-857]

ALBUQUERQUE AND CERRILLOS COAL CO.,  
ET AL.

MEMORANDUM OPINION AND ORDER CONCERNING MOTION FOR REHEARING

In the matter of the petition of the Albuquerque and Cerrillos Coal Company, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, applying for relief in making certain prices applicable only to shipments of coal for use by the Federal Government and agencies thereof when shipped from subdistrict 2 of District No. 18 into Market Areas 228 (in New Mexico), 229, 232, and 236.

In the matter of the petition of Bituminous Coal Producers Board for District No. 18 for changes in the classifications and minimum prices for coals produced and sold in District No. 18, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

In the matter of the petition of District Board No. 17 for revision of the effective minimum prices for certain coals produced at the mines in Subdistricts 7, 8, and 9 in District No. 17, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

These proceedings arose upon petitions filed with the Bituminous Coal Division, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

In Docket No. A-185, Albuquerque and Cerrillos Coal Company ("Albuquerque



and Cerrillos"), a code member and operator of the Jones Mine (Mine Index No. 11) in Subdistrict 2 of District 18, requested a revision of the effective minimum prices for its coals for shipment by rail into Market Areas 228, 229, 232, and 236, upon sales to agencies of the United States Government. The petition of Albuquerque and Cerrillos alleged that the effective minimum prices did not properly take into account freight rate differences created by the land grant and land grant equalization rates for shipments to agencies of the United States Government in Market Areas 228, 229, 232, and 236 and prayed, therefore, that the effective minimum prices for the coals produced at its Jones Mine should be reduced to the extent necessary to enable them to deliver at 5 cents less than the coals of Subdistrict 9 of District 17 at destinations in Market Areas 228, 229 and 232 on shipments made pursuant to government contracts, rather than at higher prices as required by the currently effective minimum prices; and that the effective minimum prices for shipments on government contracts to points in Market Area 236 should be reduced by amounts ranging from 50 cents on Size Group 9 to \$1.15 on Size Group 2. Albuquerque and Cerrillos further sought a modification of the District 18 price schedule to provide that Size Group 3 coals should include 6" x 3" and 1½" lump in order to make it identical with Size Group 5 of District 17's schedule.

In Docket No. A-265 District Board 18 sought a revision of the effective minimum prices of coals in Size Groups 1 to 9, inclusive, produced in Subdistrict 1 of District 18 for shipment by rail to certain destinations in Market Area 232 upon sales to agencies of the United States Government and a revision in the effective minimum prices of coals in Size Groups 1 to 9, inclusive, produced in Subdistrict 2 of District 18 for shipment by rail into Market Areas 227 and 229, and to certain destinations in Market Area 232 upon sales to agencies of the United States Government.

In Docket No. A-857 District Board 17 sought a revision of the effective minimum prices of the coals in Size Groups 1 to 11, inclusive, produced at the mines in Subdistricts 7, 8 and 9 of District 17 for shipment by rail into Market Area 228 and to certain destinations in Market Area 232 upon sales to agencies of the United States Government.

District Board 17 filed a petition of intervention in Dockets Nos. A-185 and A-265; District Board 13 filed a petition of intervention in Docket No. A-185. Pursuant to an appropriate order, a consolidated hearing in the matters originally involved in Dockets Nos. A-185 and A-265 was held and thereafter temporary relief was granted in part.

Albuquerque and Cerrillos Coal Company filed a statement protesting the temporary relief. District Board 18 filed an amended petition and an amended supplemental petition, averring that conditions had so changed since the original hearing that further evidence should be received. District Board 17 by letter concurred in the request for the reopen-

ing of the hearing. In accordance with such request, an order for rehearing and consolidating Docket No. A-857 with the hearing for the consolidated matters in Dockets Nos. A-185 and A-265 was issued. Pursuant to said order, a hearing in these consolidated matters was held before Charles S. Mitchell, a duly designated Examiner of the Division, at a hearing room thereof in Washington, D. C. All interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard. Appearances were entered on behalf of the Albuquerque and Cerrillos Coal Company, District Boards 17 and 18, and the Consumers' Counsel Division (now the Office of Bituminous Coal Consumers' Counsel). A brief was filed by the Bituminous Coal Consumers' Counsel. Thereafter on May 20, 1942, Examiner Mitchell submitted his Report, Proposed Findings of Fact, Proposed Conclusions of Law and Recommendation. On June 6, 1942, exceptions to the Examiner's Report were filed by the Bituminous Coal Consumers' Counsel.

On July 17, 1942, I issued a Memorandum Opinion and Order Modifying, and Approving and Adopting as Modified, the Proposed Findings of Fact, Proposed Conclusions of Law and Recommendation of the Examiner. My order provided that the proposed findings of fact and proposed conclusions of law of the Examiner should, with some modification, be approved and adopted as my findings of fact and conclusions of law. The order further provided that effective fifteen (15) days from the date of said order the Schedule of Effective Minimum Prices for District No. 18 For All Shipments was to be amended by adding thereto the following Price Instructions and Exceptions:

1. "When coals within Size Groups 1 through 9 from Subdistrict 2 are offered for sale or sold to the United States of America or agencies thereof, for rail shipment to destinations in Market Areas Nos. 227, 228, in New Mexico, 229 and 232, the prices listed herein for such coals may be reduced by an amount necessary to permit such sizes to be delivered in said market areas at prices equal to the delivered price for coals of the comparable sizes of Subdistrict 9 of District 17," and

2. "When coals within Size Groups 1 through 9 from Subdistrict 1 are offered for sale or sold to the United States of America or agencies thereof, for rail shipment to destinations on the Atchison, Topeka and Santa Fe Railway Company in Market Area 232, south of Belen, New Mexico, and to and including Rincon, New Mexico, and all destinations on the Silver City Branch of said railroad west of Rincon, New Mexico, the effective minimum prices listed herein for such coals may be reduced by an amount necessary to permit such sizes to be delivered to these destinations at prices equal to the delivered prices for coals of comparable sizes from Subdistrict 2 of District 18 and Subdistrict 9 of District 17, but in no event shall the reduction be more than 75 cents per ton."

The order further provided that effective fifteen (15) days from the date thereof the Schedule of Effective Minimum Prices for District No. 18 For All Shipments was to be amended by changing the definition of Size Group 3 to read: "Lump and grate 1½" and 6" x 3"." The order further provided that effective fifteen (15) days from the date thereof the schedule of effective minimum prices for District No. 17 was to be amended by adding thereto the following Price Instruction and Exception:

"When coals within Size Groups 1 through 11 from Subdistrict 9 are offered for sale or sold to the United States of America or agencies thereof for rail shipment to destinations in New Mexico in Market Area 228 on the Atchison, Topeka and Santa Fe Railway Company and on the Southern Pacific Company, and to destinations in Market Area 232, including points on the Southern Pacific Company in New Mexico except Deming and in Arizona on the line from Mora via Fairbank to and including Nogales, the prices listed herein for such coals may be reduced by an amount necessary to permit such sizes to be delivered in said market areas at prices equal to the delivered price for coals of comparable sizes from Subdistrict 2 of District 18."

The order further provided that the prayers for relief contained in the several petitions filed herein, except as granted above, should in all other respects be denied.

On July 28, 1942, District Board 17 filed exceptions to the Report of Examiner Charles S. Mitchell. Under § 301.110 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937 entitled "Exceptions to examiner's report," exceptions to the report, findings and recommendations of the Examiner may be filed not later than fifteen (15) days after such findings and such recommendations are filed, or such other period as is prescribed. The exceptions filed by District Board 17 were therefore tardily filed. Upon being advised to this effect, District Board 17 filed on August 19, 1942, a petition for rehearing and to vacate orders in which it requested that these matters be set for further hearing and that pending decision as a result of the said hearing, the relief granted by me in my order of July 17, 1942, be terminated and that any and all temporary or permanent relief heretofore granted in these matters be terminated.

District Board 17 excepts to the finding that the land grant equalization rates have been discontinued by the Southern Pacific Company and the Atchison, Topeka and Santa Fe except when shipments are made for military

\* Exception was taken by the District Board to the "Examiner's Findings." As pointed out above, District Board 17 could no longer file such exceptions. Inasmuch as I approved the Examiner's findings, with some modifications, the exceptions have been considered as directed to my findings.

or naval use. The District Board states that these land grant equalization rates were discontinued entirely as of December 31, 1941.

My findings took notice of section 321 (a) of the Transportation Act of 1940 (54 Stat. 899, 954), which requires the United States to pay the full applicable commercial rates, fares, or charges for transportation of mail, persons, or property, and of action taken by the Southern Pacific on December 28, 1940, and the Atchison, Topeka and Santa Fe on January 17, 1941, pursuant to section 321 (b) of the Transportation Act of 1940, which resulted in a discontinuance of the land grant rates by these two railroads, except when shipments are made for military or naval use. The finding that "the land grant equalization rates have been discontinued by these two railroads except when shipments are made for military or naval use" is, however, incorrect according to information now available to the Division. This information indicates that these land grant equalization rates were discontinued on June 30, 1941, except for shipments consigned to the military or naval branches of the United States Government at Fort Huachuca, Arizona, and Fort Bliss, Marfa and Spofford, Texas. The land grant equalization rates to these four destinations on shipments for military or naval use were discontinued as of December 31, 1941. My findings of fact, in so far as they approve the finding of the Examiner that land grant equalization rates had been discontinued by these two railroads, except when shipments are made for military or naval use, should be modified in conformance with this information. Petitioner fails to show, however, that the modification of the statement excepted to should make a difference in the relief granted, and if so, to what extent.

The District Board excepts also to my finding that "evidence indicates that the Albuquerque and Cerrillos coals and those of District 17 are analytically similar and are generally regarded as qualitatively equivalent for the government business in Market Areas 227, 228, 229, and 232." The District Board claims that this statement was "undoubtedly" based on a comparison of two mines only, the Sugarite Mine in Subdistrict 9 of District 17 and the Albuquerque and Cerrillos Jones Mine in Subdistrict 2 of District 18. The District Board contends that the Sugarite Mine is no longer in operation and that the record shows that the analytical qualities of the Albuquerque and Cerrillos coals are superior to those of the Brilliant, Van Houten and Dawson Mines in Subdistrict 9 of District 17, which results in a competitive disadvantage for the District 17 coals inasmuch as the Government purchases coals on a basis of cost per million B. t. u.'s delivered. The District Board did not support its contention concerning allegedly superior qualities of the Albuquerque and Cerrillos coals by specific reference to the record. The record indicates rather that the analytical qualities of these competing coals in Districts 17 and 18 vary, but generally are similar

to each other. In any event, I pointed out in my memorandum opinion and order of July 17 that the parties had not proven their contention that relief should be granted where coordination is sought to be established on a B. t. u. basis.

The District Board excepts to the amendment of the Schedule of Effective Minimum Prices for District No. 18 For All Shipments by changing the definition of Size Group 3 to read: "Lump and grate  $1\frac{1}{2}$ " and  $6'' \times 3'''$ ". It states that Subdistrict 9 of District 17 cannot be said to have an advantage over Subdistrict 2 of District 18 in disposing of  $1\frac{1}{2}$ " lump coal for government business merely because District 17  $1\frac{1}{2}$ " lump is included in the same size group and is priced at a parity with  $6'' \times 3'''$  egg, inasmuch as Subdistricts 7, 8, and 9 of District 17 have not shipped any  $1\frac{1}{2}$ " lump coal to the Government in the territory involved; and that the size group designations and the minimum price schedules for District 17 and 18 are not the same in all cases.

The amendment of the District 18 Size Group 3 designation to include  $1\frac{1}{2}$ " lump with  $6'' \times 3'''$  lump was first effected in the order granting temporary relief. No objection to this temporary relief was made by District Board 17 at the rehearing. In any event, at the original hearing the witness McKnight, for the Albuquerque and Cerrillos Coal Company, testified that the Government buys substantial quantities of  $1''$  lump coal which takes the same minimum price as  $1\frac{1}{2}$ " lump coal. In view of the competitive relationship in the market areas involved between Subdistrict 2 of District 18 and Subdistrict 9 of District 17, the amendment of Size Group 3 in the District No. 18 minimum price schedule appears justified.

The District Board contends that an advantage has been given Albuquerque and Cerrillos in permitting it to equalize its delivered prices for its coals within Size Groups 1 through 9 with the delivered prices for coals of comparable sizes from Subdistrict 9 of District 17 for rail shipment to the United States Government to destinations in Market Areas Nos. 227, 228, in New Mexico, 229 and 232, whereas the prices of Subdistrict 9 of District 17 coals in Size Groups 1 through 11 can be equalized with the delivered prices for coals of comparable sizes from Subdistrict 2 of District 18 for rail shipment to the United States Government only to destinations in New Mexico in Market Area 228 on the Atchison, Topeka and Santa Fe Railway Company and on the Southern Pacific Company and to destinations in Market Area 232, including points on the Southern Pacific Company in New Mexico, except Deming, and in Arizona on the line from Mora via Fairbank to and including Nogales. The District Board asks that Subdistrict 2 of District 18 and Subdistrict 9 of District 17 be allowed to equalize delivered prices to all these market areas on government business, if it be assumed that their coals are comparable.

The petitions upon which relief was finally granted, and which at the re-

hearing were testified to be the joint decision of both District Board 17 and District Board 18, restricted the request for relief for Size Groups 1 through 9 coals of Subdistrict 2 of District 18 when sold to the United States Government to destinations in Market Areas 227 and 229 and part of 232 and for coals of Subdistrict 7, 8 and 9 of District 17 for such shipment to Market Areas 228 in New Mexico and part of 232. The petition of Albuquerque and Cerrillos asked for relief also to Market Areas 228 in New Mexico and 236. Relief was granted to those market areas requested in the several petitions where the record was in support thereof. District Board 17 has not shown that the findings upon which this relief was granted failed to consider all applicable factors.

The District Board contends that the privilege granted to mines in Subdistrict 9 of District 17 to equalize the prices for their coals at prices equal to the delivered prices for coals of comparable sizes from Subdistrict 2 of District 18 on certain shipments should be extended to the Trinidad producers in Subdistricts 7 and 8 of District 17. The record includes a letter of July 2, 1941, from District Board 17 to Director Gray, advising that upon investigation the District Board had found that only mines in Subdistrict 9 of that district had shipped any coal on government contracts to Market Areas 227 to 232, inclusive, during the period June 1, 1939, to June 1, 1941. Although the Bituminous Coal Act of 1937 does not preclude competitive opportunities for mines wishing to ship into market areas where in recent years they have not shipped, the evidence in this record does not appear to warrant relief to Subdistricts 7 and 8.

The District Board requests that judicial notice be taken of the fact that subsequent to the filing of the petitions in these matters and the hearings thereon, there has been a marked change in the whole situation in connection with government business in the market areas involved due to cancellation of land grant rates, closing of the Sugarite Mine, and the extraordinary demands by the Government for fuel requirements due to the tremendous expansion of army camps, etc., and states that at the present time approximately 80 percent of the commercial business other than railroads in New Mexico is for the government. The District Board asks that my Order of July 17, 1942, be terminated and that the minimum prices which became effective on October 1, 1940, be restored. However, that the land grant rates have been discontinued and that the Sugarite Mine had been abandoned was apparent in the record before the Examiner and before me. It may be that since the original hearing in these matters conditions surrounding the shipments of the coals involved have changed markedly. A further rehearing on the petitions in these matters would only prolong an already long and complicated matter. If District Board 17 seeks a revision of the minimum prices now effective for shipments of the coals produced by mines in its district for governmental use, it can

file a new 4 II (d) petition. In such manner, interested persons will have an opportunity to present the facts now existent and not be compelled to face issues which are a matter of the past. The request, therefore, for the reopening of these proceedings should be denied.

Now, therefore, it is ordered, That my Memorandum Opinion and Order Modifying, and Approving and Adopting as Modified, the Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations of the Examiner, dated July 17, 1942, be, and it hereby is modified to the extent set out above.

It is further ordered, That the motion of District Board 17 for rehearing herein and to vacate orders be, and it hereby is, denied in all other respects.

Dated: October 13, 1942.

[SEAL] DAN H. WHEELER,  
Director.

[F. R. Doc. 42-10314; Filed, October 14, 1942;  
11:03 a. m.]

## DEPARTMENT OF LABOR.

### Wage and Hour Division.

#### LEARNER EMPLOYMENT CERTIFICATES

##### ISSUANCE TO VARIOUS INDUSTRIES

Notice of issuance of Special Certificates for the employment of learners under the Fair Labor Standards Act of 1938.

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under section 14 thereof, Part 522 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862, and as amended June 25, 1942, 7 F.R. 4723), and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591).

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear, Rainwear, Robes, and Leather and Sheep-Lined Garments Divisions of the Apparel Industry, Learner Regulations, July 20, 1942 (7 F.R. 4724).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

Glove Findings and Determination of February 20, 1940, as amended by Administrative Order of September 20, 1940 (5 F.R. 3743).

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829).

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982).

Millinery Learner Regulations, Custom Made and Popular Priced, August 23, 1940 (5 F.R. 3392, 3393).

Textile Learner Regulations, May 10, 1941 (6 F.R. 2446).

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302).

Notice of Amended Order for the Employment of Learners in the Cigar Manufacturing Industry, July 20, 1941 (6 F.R. 3753).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum age rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective October 15, 1942. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificates. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, INDUSTRY,  
PRODUCT, NUMBER OF LEARNERS AND EX-  
PIRATION DATE

#### Apparel Industry

Picariello & Singer, Inc., 16 New St., East Boston, Massachusetts; Boys' clothing and military overcoats; 5 percent (T); October 15, 1943.

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear, Rainwear, Robes, and Leather and Sheep-Lined Garments Divisions of the Apparel Industry

Barson & Bishop, Franklin St., Westport, Pennsylvania; Sportswear, blouses, W. A. A. C. shirts; 10 percent (T); October 15, 1943.

C. P. Brown Mfg. Co., 223 W. Third St., Des Moines, Iowa; Men's and boys' work clothing and trousers; 10 percent (T); October 15, 1943.

Gross Galesburg Co., 152-162 E. Ferris St., Galesburg, Illinois; Single pants, fabric overalls, coveralls and work shirts; 10 percent (T); October 15, 1943.

Jeanette Frocks Mfg. Co., 400 First Ave., N., Minneapolis, Minnesota; Dresses; 8 learners (T); October 15, 1943.

Kay Andrews Co., Inc., 1125 Dickenson St., Elizabeth, New Jersey; Ladies cotton dresses and house coats; 6 learners (T); October 15, 1943.

Martin-Jay Dress Corp., 143 W. Main St., Amsterdam, New York; Ladies' dresses; 10 learners (T); October 15, 1943.

Mason & Hughes, Inc., Erin, Tennessee; Herringbone twill jackets; 10 learners (T); October 15, 1943.

Mason & Hughes, Inc., 103 Legion St., Clarksville, Tennessee; Herringbone twill jackets; 10 percent (T); October 15, 1943.

Middendorf Brothers, 525 Filbert St., Philadelphia, Pennsylvania; Ladies' silk underwear; 5 learners (T); October 15, 1943.

Quality Mfg. Co., Point Pleasant, West Virginia; Wash dresses; 10 learners (T); October 15, 1943.

Reliance Mfg. Co., Ferguson St., Hattiesburg, Mississippi; U. S. Army Herringbone twill jackets, U. S. Navy Wash shirts; 10 percent (T); October 15, 1943.

A. Rosenblatt & Sons, Inc., 50 Marble St., West Rutland, Vermont; Cotton dresses and housecoats; 10 percent (T); October 15, 1943.

Rob Roy Co., Race St., Cambridge, Maryland; Dress shirts; 10 learners (T); October 15, 1943.

Edward Shuwall & Co., Inc., Elizabethtown, Pennsylvania; Children's dresses; 10 percent (T); October 15, 1943.

Yolanda Dress Co., 229 French St., New Brunswick, New Jersey; Children's dresses; 2 learners (T); October 15, 1943.

#### Glove Industry

Johanson Glove Co., Inc., 70 Washington St., Brooklyn, New York; Knit fabric and work gloves; 5 learners (T); October 15, 1943.

#### Hosiery Industry

Clayson Knitting Co., Star, North Carolina; Seamless hosiery; 5 learners (T); October 15, 1943.

G. & H. Hosiery Co., Inc., 801 Eighth Ave. & 23rd St., Hickory, North Carolina; Seamless hosiery; 5 percent (T); October 15, 1943.

Interwoven Stocking Co., Third & King St., Chambersburg, Pennsylvania; Seamless hosiery; 5 percent (T); October 15, 1943.

Ridgeview Hosiery Mill Co., Main Ave., Newton, North Carolina; Seamless hosiery; 5 percent (T); October 15, 1943.

Schuylkill Valley Mills, Inc., South Main St., Spring City, Pennsylvania; Full-fashioned hosiery; 5 percent (T); October 15, 1943.

Viewmont Hosiery Mills, 2nd St., Hickory, North Carolina; Seamless hosiery; 5 learners (T); October 15, 1943.

Walton Knitting Mills, Church Ave. & N. Mills St., Hickory, North Carolina; Seamless hosiery; 5 learners (T); October 15, 1943.

The Winsted Hosiery Co., 196 Holabird Ave., Winsted, Connecticut; Seamless hosiery; 5 percent (T); October 15, 1943.

Signed at New York, N. Y., this 13th day of October 1942.

MERLE D. VINCENT,  
Authorized Representative  
of the Administrator.

[F. R. Doc. 42-10312; Filed, October 14, 1942;  
10:13 a. m.]

